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January 16, 2024

**BY ECF**

Honorable P. Kevin Castel  
United States District Court  
Southern District of New York  
Daniel Patrick Moynihan U.S. Courthouse  
500 Pearl Street, Courtroom 11D  
New York, NY 10007

**Re: *Fairstein v. Netflix, Inc.* Case No. 20-cv-08042  
Objection to Defendants' Request to Adjourn Trial Date**

Dear Judge Castel:

The undersigned represents Plaintiff Linda Fairstein ("Plaintiff") in the above-referenced action. We write in response to Defendants' request to adjourn the court-ordered date for the trial of this action, which is scheduled to commence on May 6, 2024 at 9:30 a.m. ECF Nos. 270, 275.

Plaintiff greatly appreciates the Court's efficiency in managing this case to date, including the adjudication of the recently-decided, voluminous summary judgment motion. As Your Honor is aware, Plaintiff has been awaiting her day in court for nearly four (4) years. Plaintiff opposes Defendants' request to move the May 6<sup>th</sup> trial date on the ground that this court-selected date works the best for Plaintiff's trial team, which is comprised of Mr. Miltenberg, Ms. Gorycki and Mr. Bernstein. Non-party witnesses are also available in May. Defendants are now represented by *two* behemoth law firms who can readily staff this case to meet the demands of preparing for trial—even if certain attorneys will be trying other cases.

Until the filing of Mr. Williams' letter, Plaintiff's counsel was unaware of his role as "lead trial counsel" in this case. From the time this case was filed in 2020 through two motions to

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dismiss, hundreds of thousands of pages of document discovery, 19 depositions (including in Los Angeles), innumerable conference calls, summary judgment and the filing of Plaintiff's pre-trial submissions—Defendants have been represented by Natalie Spears, “a trial lawyer” who has been “recognized for her courtroom achievements.”<sup>1</sup> Though Mr. Williams filed a Notice of Appearance in this case about three months ago, on September 28, 2023, he participated in no conference calls or meetings with Plaintiff's counsel until January 4, 2024, when counsel had a Zoom meeting to discuss various case issues. Ms. Spears led the meeting. No mention was made of Mr. Williams' position as “lead” counsel.

On January 4, the parties' counsel generally discussed including the dates upon which they were unavailable for trial in the Joint Pre-Trial Order. *See* ECF No. 218. Mr. Williams suggested that counsel list their upcoming trials in the Pre-Trial Order, but did not mention that he had an upcoming bellwether trial beginning on April 1.<sup>2</sup> The discussion was tabled for a later date.

Mr. Williams' submission to the Court grossly mischaracterizes the discussion that took place on January 12, suggesting that the parties' counsel agreed to moving the trial date and that Plaintiff's counsel suddenly changed course. This is wholly inaccurate. On January 12, the parties' counsel participated in a Zoom meeting in which the ***first reason*** given by Ms. Spears and Mr. Williams for seeking an adjournment of the May 6<sup>th</sup> trial date was the three graduations referenced in Mr. Williams' letter. Counsel did not state when the graduations were scheduled to occur. Defendants' counsel raised alternative timeframes for trying this case, and some discussion about this issue ensued, but Plaintiff's counsel ***made clear*** that Plaintiff did not consent to Defendants' adjournment request and counsel had to further consider the matter. Once it became clear that an agreement would not be reached at that time, Mr. Williams mentioned that he had a trial in April which could continue into May. He provided no other details about the case. At the end of the meeting, Ms. Gorycki and Mr. Bernstein said they would get back in touch to inform Ms. Spears and Mr. Williams about whether Plaintiff would agree to move the trial date and submit a joint letter to the Court.

On January 14, 2024, Plaintiff's counsel notified Defendants' counsel that Plaintiff did not consent to adjourning the trial date and that Plaintiff would not participate in a joint request to the Court. In response, Mr. Williams suddenly represented that his trial would last for six weeks, but provided no additional details. Mr. Williams demanded that Plaintiff's counsel provide a full

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<sup>1</sup> <https://www.dentons.com/en/natalie-spears>.

<sup>2</sup> According to the case docket in *Holley v. Gilead Sciences, Inc.*, Case No. 18-cv-06972-JST (N.D. Cal.), a proposed Fourteenth Amended Scheduling Order, with the April 1 trial date, was filed on January 3, 2024 and entered on January 4. The submission lists Mr. Williams and ***three*** other Proskauer partners as counsel of record. *See* ECF Nos. 1468 (at p. 2), 1468-1. The April 1 trial date was agreed upon by counsel, with the original trial date being January 29, 2024. ECF Nos. 1319-1, 1468.



recitation of their trial calendar for inclusion in Defendants' letter to the Court. Plaintiff's counsel again advised that Plaintiff would not participate in a joint request to adjourn the trial date.

Apart from the trial of this case, Nesenoff & Miltenberg, LLP has the following trials scheduled in 2024:

1. ***Mark Schoolfield v. Services of the Undeserved, et.al***, (New York Sup. Ct. Bronx County), Index No. 27123/2015E – March 6, 2024 jury trial (Mr. Bernstein, Mr. Miltenberg)
2. ***Doe v. Butler University***, Case No. 1:22-cv-01828-SEB-MB (S.D. Ind.) – July 22, 2024 jury trial (Mr. Miltenberg, Regina Federico)
3. ***Quintez Cephus v. University of Wisconsin, et.al***, Case No. Civ-21C0126 (W.D. Wisconsin) – August 19, 2024 jury trial (Mr. Miltenberg, Mr. Bernstein)
4. ***Graham Boswell v. Wofford College, et.al***, Case No. 7:23-cv-05467-TMC (D.S.C.), Sept. 3, 2024 - jury selection deadline (or sixty (60) days after dispositive motions have been resolved. (Mr. Miltenberg, Helen Setton)
5. ***Doe v. The Administrators of Tulane of the Educational Fund d/b/a Tulane University***, Case No. 2:23-cv-01348 (E.D. La.) - October 7, 2024 jury trial (Ms. Gorycki, Mr. Bernstein)

We thank the Court for its consideration of this submission.

Respectfully Submitted,

By: /s/ Kara L. Gorycki

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